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RUEHCV/AMEMBASSY CARACAS 1431
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SUBJECT: GOB PLANS TO NATIONALIZE HYDROCARBONS IN APRIL

REF: LA PAZ 627

¶1. (SBU) Summary: The GOB recently announced that it intends to nationalize the hydrocarbons sector in April and launch a revamped YPFB (state oil company) by July. Hydrocarbons Minister Andres Soliz Rada confirmed these plans in a meeting with the Ambassador on March 28. U.S.-owned hydrocarbons companies are concerned about the GOB's plans, its lack of transparency, and its use of "extra-legal" methods of intimidation to influence the negotiation process. The companies, however, seem willing to negotiate new contracts, which could resemble oil company contracts in Venezuela, once the GOB clarifies the operating rules and if "nationalization" does not turn out to mean "expropriation." We heard nothing from Minister Soliz Rada to assure existing investors that their interests would be protected. End summary.

GOB to Nationalize Hydrocarbons in April

¶2. (SBU) According to press reports, President Morales has pledged to nationalize the hydrocarbons sector and launch a revamped YPFB (state oil company) by July 2006. In a meeting with the Ambassador on March 28, Hydrocarbons Minister Andres Soliz Rada stated that nationalization would likely be accomplished in April, prior to the YPFB launch, but took care to underline that President Morales would set the date. "Nationalization", he explained, means government participation, via YPFB, in all aspects of the productive chain as established in Bolivia's 2005 Hydrocarbons Law. The GOB intends for YPFB to set prices and determine production volumes. According to press reports, Vice President Alvaro Garcia Linera stated that nationalization would have seven characteristics: recouping state control over hydrocarbons at the wellhead, state control over distribution and commercialization, gaining majority shareholder status in the companies, promoting natural gas industrialization, distributing natural gas to the population, sanctioning companies that do not comply with the rules, and guaranteeing legal security to foreign investors. Soliz Rada stated that the transfer of gas ownership to the state would be

accomplished through a supreme decree that would implement the provisions of the Hydrocarbons Law passed in May 2005, particularly Article 5 which recoups the Bolivian state's ownership of hydrocarbons at the wellhead.

13. (SBU) Soliz Rada explained that after the issuance of the supreme decree, there would be a six-month negotiation period between the GOB and the companies during which new contracts would be agreed upon. During this six-month period, the GOB would conduct audits of the companies to determine the companies' levels of investment and to reckon "who owes whom between the government and the companies" from the companies' period of "illegal operation" between the late nineties and now. Soliz Rada claims the current contracts are unconstitutional because they were never approved by congress, but, pending their replacement, have de facto status allowing operations to continue. Before the new contracts are signed, Soliz Rada said that each contract will have to be approved by congress. Soliz Rada stated that this procedure would apply to all natural resource contracts.

14. (SBU) Soliz Rada acknowledged that investment in the hydrocarbons sector had stalled, but stated that it was only a natural consequence for an industry "in a period of transition." Responding to the Ambassador's probe, he said that the gas export project to the United States proposed by former President Gonzalo Sanchez de Lozada was not a good deal for Bolivia and was no longer needed. The Minister claimed that Brazil and Argentina both wanted to greatly increase their purchases of Bolivian gas. Because Chile was prepared to buy gas for USD 6 to 8 per MCF, he thought that regional gas prices would quickly rise allowing for upward adjustments in the prices paid by Brazil and Argentina for Bolivian gas. When asked about the possible export of gas to Chile, Soliz Rada said that would be impossible, but that discussions were underway to build thermoelectric plants in Tarija which could export electricity to Chile.

U.S. Companies Concerned

15. (SBU) Hydrocarbons companies are concerned for a variety of reasons. In a March 16 meeting with Econoff, executives from Transredes, the Bolivian pipeline operator owned by the U.S. company Prisma, expressed their concern that the GOB had yet to issue transportation regulations required to implement the May 2005 Hydrocarbons Law with respect to pipeline operations. Despite the delay and lack of assurances of its future operating environment, Transredes, under GOB pressure, has continued with the construction of an expanded pipeline (GAA) to bring fuel to the Altiplano. This project to increase pipeline capacity is on schedule to be completed in July. The GOB recently announced plans to construct an additional pipeline to bring gas to the Altiplano to meet growing demand. Transredes would be willing to work with the GOB to build this pipeline if the GOB clearly laid out the rules of the game. Minister Soliz Rada told the Ambassador on March 28 that the GOB is currently "analyzing" these regulations.

16. (SBU) On March 20, Jana Drakic, the Vice President of Chaco, partially owned by U.S. firm Pan-American Energy, told us she was extremely concerned that the GOB is employing threats and "extra-legal" intimidation tactics to influence the companies in the negotiation process, as well as dividing the companies in order to conquer them. The companies are particularly disturbed by government's heavy-handed and highly-politicized legal action against Repsol (septel). Chaco, one of the ten capitalized companies singled out for government take-over (reftel), is facing considerable GOB pressure to invest in additional liquid petroleum gas (LPG) production under the constant shadow of possible government intervention. (Note: Approximately 45% of the shares of the previously state-owned companies were allocated to the pension fund manager during capitalization (partial privatization). End note.) Chaco currently produces about 35% of Bolivia's LPG. Drakic explained that this production is subsidized by Chaco at USD 70/ton. The GOB has promised to issue a decree that would make the LPG plants profitable,

but has not yet done so.

¶17. (SBU) Drakic said the GOB has not discussed its take-over plan with Chaco, but she had heard that YPFB had worked out a mechanism with the pension fund manager to transfer the shares held by the fund manager to YPFB. The GOB has not yet provided the companies with model contracts to which to migrate. Drakic continued, however, that PDVSA (Venezuela's state oil company) was advising YPFB on how to draft the contracts and gain ownership control over the capitalized companies; thus, she expected that one could look at company contracts in Venezuela to get an idea of what was coming.

¶18. (SBU) Jorge Martignoni, President of Vintage Petroleum which is owned by U.S. company Occidental Petroleum, told us on March 20 that Vintage has only had one courtesy call meeting with new GOB representatives, i.e., Hydrocarbons Minister Soliz Rada and YPFB Director Jorge Alvarado, since the government transition. He said the government promised to deliver regulations that would provide benefits to producers with small fields, for which Vintage would qualify, but has yet to promulgate such regulations or provide Vintage with any information about when it might do so. Hydrocarbons Minister Soliz Rada told the Ambassador that producers with small fields will receive different treatment, including lower tax rates. Both Chaco and Vintage expressed concern that Petrobras, which has discussed joint petrochemical and thermoelectric projects with the GOB, will get preferential treatment over other companies. The President of Vintage stated that Vintage's future plans in Bolivia would depend on the GOB's actions, but if the company had a more certain environment here, it would likely expand its operations and look for additional markets, perhaps even Chile.

¶19. (SBU) Comment: Tired of being in limbo, hydrocarbons companies welcome the expected release in April of the GOB's "nationalization" plan. The companies appear willing to negotiate new contracts and work with YPFB in a cooperative manner as long as the GOB makes the rules of the game clear. However, we heard nothing from Minister Soliz Rada to assure existing investors that their interests would be protected. The GOB's interpretation of the Bolivian Constitution's requirement to have all natural resource contracts approved by Congress will likely impact businesses in several other sectors, including mining, where there is significant U.S. investment. End comment.

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